

**OFFICE OF THE
TOWN MANAGER**



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Town of Shrewsbury
MASSACHUSETTS 01545-5398

September 29, 2006

To: Board of Selectmen

From: Daniel J. Morgado

Re: Options in the Selection of the Next Police Chief

As you are aware, the police chief position is covered by Chapter 31 (Civil Service). This has been the case since February 6, 1928 when the Town adopted Chapter 31, Section 49 (attached).

In 1994, Town Meeting defeated a proposal to remove the position from Civil Service (attached).

The following are the options to select the next Chief:

1. The Town calls for a chief's exam that would take place in May of 2007 which is the next time Chief exams are being scheduled. Scores would be available in (90) days and a official list available by October 2007. The announcement would be formally posted in February/March but notice to candidates would be made immediately. The test could be either promotional with only eligible members of the Shrewsbury Police Department or open whereby the exam is available to eligible members of other police departments. Traditionally, the Town has used the promotional exam process. There is some latitude on the structure of the exam and the weighting criteria.
2. The Town calls for lateral transfers pursuant to c. 31, s.35.
3. The Town reinstates a chief who has been out of the job for less than five years (c.31, s. 46)
4. The Town takes the position out of civil service and fills the vacancy in the same manner as all other department heads. However, in my opinion, this person would have to become a contract employee to provide the necessary protections necessary for the Chief's position. To take the position out of civil service would require the action of the Town Meeting and subsequent approval of the Home Rule Petition by the General Court.

In theory, there is a 5th option involving a statewide chief's list but there is no active list and no plans to schedule such an exam. A 6th option does allow for the Town to enter into a delegation agreement whereby it assumes the responsibility of the Human Resources Division (HRD) (attached).

In light of the level of uncertainty relative to the future leadership of the department, I feel it very important that a permanent chief be appointed as soon as possible and that any period of an acting chief be limited.

The policy question of taking the position out of civil service should be posed to the Town Meeting, the problem is how to do so and not exacerbate the length of time that an acting chief would be required or to create any more uncertainty within the department. If we wait until May of 2007, then we could be faced if the article was defeated with having to wait until May of 2008 for the exam and a permanent appointment in October of 2008. In my opinion, this is not an acceptable means to proceed.

A solution would be to call for a Special Town Meeting on November 13, 2006, for the sole purpose of proposing that the position be removed from civil service. The Home Rule Petition would then be filed and acted upon by the General Court sometime on or before December 31, 2006. I could then fill the position permanently over the space of 60 days to allow for a reasonable period of advertisement, interviews and selection. In fact, advertisements could be placed immediately after the November 13th meeting. This approach if successful would minimize the period of the acting chief and put the department on a permanent status well before October 2007 and thus minimize this transitional period.

If the Town Meeting defeats the proposal to take the position out of Civil Service we can then proceed to call for the exam in May of 2007. I do not feel that filling the position via lateral transfer or via recall are acceptable options.

I will review this matter with you at your meeting on Monday night. The Finance Committee should also be consulted and I have tentatively arranged with Mr. Buddenhagen a meeting of the Finance Committee for October 12th. In addition to discussing this issue, I will also review other fiscal issues that are pending that involve the Police Department. In one instance, in relation to the (2) new positions authorized this week. I am advised that interest has recently been shown for lateral transfers to the department that would result in trained officers on the street in a matter of weeks as opposed to police recruits in a matter of months. This change of direction does have fiscal implications since the (2) new positions were funded for (6) months at entry level and the cost of laterals will require additional funds.

Please advise with any questions.

REPORT OF THE SPECIAL TOWN MEETING

October 25, 1994

The meeting was called to order at 7:45 P.M. when the moderator announced a quorum of town meeting members in attendance. The official check list showed 207 town meeting members checked as present during the course of the evening including members-at-large.

As the first order of business, the moderator examined the warrant and constable's return and asked for and received unanimous consent to waive the reading of the warrant.

The moderator led the assembly in the pledge of allegiance to the flag.

A moment of silence was observed in memory of the late Howard A. Ricker, a long-time Town Meeting Member and retired Shrewsbury Police Officer.

An asterisk indicates articles recommended by the Finance Committee.

*Article 1: Liqueurs and Cordials

VOTED UNANIMOUSLY that the Town accept the provisions of the 14th Paragraph of Section 12 of Chapter 138 of the General Laws, which allows a Common Victualler, who holds a license to sell wines and malt beverages, may sell liqueurs and cordials pursuant to said license with the written permission of the Board of Selectmen.

*Article 2: Transfer Funds to Highway Department

DEFEATED a motion to postpone discussion and vote on Article 2 until after discussion and vote on Article 5.

VOTED UNANIMOUSLY that the Town accept the sum of \$576,594 allocated to the Town by the Commonwealth of Massachusetts under the provisions of Chapter 85 of the Acts of 1994 and transfer said sum to the Highway Department.

Article 3: Remove Chief of Police from Civil Service Law

VOTED to end debate and vote the printed motion.

DEFEATED that the Town authorize the Board of Selectmen to file the following petition with the General Court:

An Act exempting the position of Chief of the Police Department, in the Town of Shrewsbury from the provisions of Civil Service Law.

Section 1: The position of Chief of the Police Department of the Town of Shrewsbury shall be exempt from the provisions of Chapter 31 of the General Laws.

Section 2: The provisions of Section 1 shall not impair the Civil Service status of any person holding the position of Chief of the Police Department of the Town of Shrewsbury on the effective date of this Act.

Selectmen 1 in favor, 4 opposed

The General Laws of Massachusetts

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PART I. ADMINISTRATION OF THE GOVERNMENT
TITLE IV. CIVIL SERVICE, RETIREMENTS AND PENSIONS

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CHAPTER 31. CIVIL SERVICE**Chapter 31: Section 35. Transfers**

Section 35. Subject to the provisions of section forty-one governing the transfer of persons who have served as tenured employees since prior to October fourteen, nineteen hundred and sixty-eight, a tenured employee may be transferred to a similar position in the same or in another departmental unit after request in writing for approval of such transfer made to the administrator by the appointing authority or authorities for such unit or units and with the approval of the administrator, provided such request includes reasons which, in the opinion of the administrator, are sound and sufficient to show that the transfer will be for the public good and will not impose unreasonable hardship on such employee. A position shall not be considered similar if it has a title higher than that of the position from which the transfer is to be made or if the requirements for appointment to such positions are substantially different.

Such transfer may be permanent or temporary, as the appointing authority or authorities shall determine, with the consent of the administrator, and, if temporary, shall be for such period of time as the appointing authority or authorities shall determine, with the consent of the administrator. A temporary transfer shall not affect the date from which length of service is computed for purposes of determining the seniority of the person transferred; nor shall such transfer be deemed to interrupt the period of service in the position from which such person is transferred where such period of service is required for eligibility for any promotion under the civil service law and rules.

Without the consent of the administrator but otherwise subject to the requirements of the two preceding paragraphs, a transfer from a civil service position within a department, as defined by section one of chapter twenty-nine, within any of the executive offices established by chapters six A and seven, to another similar position within the same department may be made with the written consent of the secretary having charge of such executive office upon submission of notice of such transfer to the administrator in such form as he shall prescribe, and subject to the provisions of the civil service law and rules; provided, however, that the duration of any temporary transfer, whether to a temporary position or to a permanent position, shall be subject to the approval of the administrator. If at any time the administrator shall determine that any transfer so consented to by such secretary has been made in violation of any such provision, the administrator shall terminate such transfer.

A person who is aggrieved by a transfer, other than an emergency transfer or assignment, made pursuant to this section but who is not subject to the provisions of section forty-one with respect to such transfer, may appeal to the commission pursuant to the provisions of section forty-three and shall be entitled to a hearing and a decision by the commission in the same manner as if such appeal were taken from a decision of the appointing authority made, after hearing, under the provisions of section forty-one.

An appointing authority for a departmental unit may make an emergency transfer or emergency assignment of any employee where the public safety or health would be seriously impaired by delay in the performance of essential duties.

Any permanent employee in a departmental unit may apply in writing to his appointing authority for transfer to a similar position within such unit, or may apply in writing to the appointing authorities for such unit and for any other departmental unit for transfer to a similar position in such other departmental unit. With the written consent of such appointing authority or authorities, as the case may be, and with the written consent of the administrator, such person may be so transferred.

The General Laws of Massachusetts

[Search the Laws](#)**PART I. ADMINISTRATION OF THE GOVERNMENT****TITLE IV. CIVIL SERVICE, RETIREMENTS AND PENSIONS****CHAPTER 31. CIVIL SERVICE****Chapter 31: Section 46. Reinstatement; hearings**

Section 46. A permanent employee who becomes separated from his position may, with the approval of the administrator, be reinstated in the same or in another departmental unit in a position having the same title or a lower title in the same series, provided that the appointing authority submits to the administrator a written request for such approval which shall contain the reasons why such reinstatement would be in the public interest. No such request shall be approved if the person whose reinstatement is sought has been separated from such position for over five years and there is a suitable eligible list containing the names of two or more persons available for appointment or promotion to such position; provided, however, that no such limitation shall apply to the reinstatement of persons whose qualifications for reinstatement to a former position have been determined pursuant to section eight of chapter thirty-two. If the administrator fails to approve the reinstatement of such person within thirty days after such request, the appointing authority or such person may make a written request for a hearing before the administrator, who shall hold such hearing forthwith and render his decision. Nothing herein shall affect the rights of persons to reinstatement under section thirty-nine.

The administrator shall reinstate any employee of a city or town who has been separated from a civil service position through retirement pursuant to the provisions of any law if such retirement is invalidated and the retirement allowance discontinued because the proceedings relative to such retirement were illegal or defective; and such employee applies to the administrator for reinstatement within one year after the last payment of such retirement allowance. The administrator shall reinstate such person, without loss of compensation, in the same position or in a position with the same title as that formerly held by him.

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Human Resources Division

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Human Resource

Pursuant to General Laws Chapter 31, Section 5(L) delegation authority to a City or Town may adopt some or all of the administration of specific Civil Service functions identified below.

- The primary responsibility for administration of all delegated Civil Service functions for a city or town or state agency will be assigned to the Director of Personnel or the Human Resources Director. Reassignment of this responsibility to any other person must be submitted and approved by the Personnel Administrator, in writing, before reassignment is made.
- Recruitment to participate in, security of, and administration and scoring of all open competitive examinations and testing processes that result in the establishment of eligible lists for specific open job titles and for promotional job titles used by your city or town.
- Establishment and maintenance of eligible lists for all titles examined in accordance with applicable statutory preferences, and certifications from these city or town eligible list in accordance with laws, rules regulations and procedures.
- The Delegation Administrator will be responsible for ensuring public access to those records determined to be public information. Eligible lists, certifications and reasons for selection must be made available for review to any individual upon written request. The addresses and scores must be expunged from the eligible list or certification prior to being shown or provided to the public. All information relative to standing and score is considered public information for the candidate requesting the information only. The birth date, age, marital status, telephone number and other personal data of another applicant is not considered public access. This information must not be made available and must be removed by the Delegation Administrator from any documentation undergoing public review.
- In accordance with Personnel Administration Rule .08 (2), the Delegated Administrator must notify Human Resources Division (HRD) as to the reasons for bypass or selection. A copy of the certification, Form 16II Form 14, selection and non-selection reasons must be submitted to the Human Resources Division for approval.
- In accordance with PAR .08 (3), the selection and non-selection reasons must be reviewed by the Human Resources Division within fifteen days of receipt. Once HRD has approved the selection and/or non-selection reasons, the accepted information must be sent to the bypass candidates.
- A Delegated City and Town or State Agency should request from HRD a printout of eligible lists used by them, on a quarterly basis. An eligible list may change through applicant's preference and selection to other civil service communities and locations.
- Periodic or random audits of all delegated personnel transactions may be conducted at any time by a representative from HRD. All records, ledgers, and correspondence relative to the delegated Civil Service functions shall be made readily available and accessible to the HRD Personnel Administrator and auditor. A report on audit findings will be made available to the Delegation Administrator and corrective action, if necessary, on any problems or errors found during that audit must be taken by the City and Town or State Agency within thirty (30) days from receipt of the audit report. A written report of the corrective action(s) shall be submitted to HRD.
- It will be the responsibility of HRD to provide and explain to the Delegation Administrator any changes in Civil Service law and rule that may directly affect any of the delegated functions.
- The assistance of HRD will be consistently available to the Delegation Administration throughout the delegation process and the HRD will provide training and technical functions as required.

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- Changes in approved procedures for the administration of delegated functions may not be made without the review and approval of both parties. The Delegation Administrator may assume no duties, which have not been authorized by this agreement or subsequent attachment.
 - The cost of all services, forms, examinations and materials provided directly by the HRD shall be assumed by the HRD unless otherwise agreed to by both parties. All other costs involved in the delegation of those functions will be the responsibility of the City or Town.
 - Any examination processing fees realized through the delegation of these functions are considered the property of the City and Town or State Agency.
 - If at any time after the delegation agreement either the City and Town or State Agency, HRD determines that delegation authority should be discontinued, reversion of the authority for all delegated functions to HRD maybe affected through thirty (30) days written notice, by registered mail, by either the City and Town or State Agency, to the Personnel Administrator.
 - It is understood that the Public Schools of a City and Town, will retain all duties, responsibilities and authorities for selection, appointment and employment of the City or Town Public Schools Civil Service Personnel. There should be a mutual agreement in the local agreement between the Delegation Administrator and the School Department officials.

Human Resources Division

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HRD responsibility to Delegated Communities & State Agencies

Human Resource

2/2/2006

- After an examination has been held, the Human Resources Division will establish an eligible list. Notice of such established list will be processed in ELIPSYS. HRD will provide a copy of the established eligible list to the community or agency.
- In the event that an applicant becomes eligible to be placed on a list after the date of establishment, or has a change in veterans status after the eligible list is established, HRD may opt to add or receive a Civil Service decision to add an applicant to an outstanding certification, if it exist.
- Inquiries as to standings, requests for changes in name and address, changes in willingness to accept permanent or temporary employment and changes in preference of geographical location, if received in HRD will be referred to the communities Personnel Director and agencies Human Resources Director to process.
- HRD will provide technical assistance as needed to assist the Personnel or Human Resources Directors for eligible lists established for job titles in their community or agencies.
- HRD will conduct on-site audits, as needed, at the Personnel Office. The audit will include review of the dates lists were established, when subsequent certifications were issued and audit of completed certifications and appointments, to ensure all applicable laws and rules are fully complied with.
- After completion of the site audit, the HRD auditor will prepare a detailed report of the results of such audit for the Personnel Administrator and the Personnel Director and Human Resources Director. The audit report will assess progress and recommend any corrective action necessary. The Human Resources Division reserves the right to invalidate any appointment that is not made in accordance with MGL Chapter 31 and/or the Personnel Administration Rules; it may also require immediate certification when a valid eligible list has been established.

SAMPLE

WEIGHTED-GRADED COMPONENT EXAMINATION

DELEGATION AGREEMENT

between the <City/Town/Department> and the
Massachusetts Human Resources Division

This agreement between the Human Resources Division (HRD) and the <City/Town/Department> (Department) is for the purpose of delineating the responsibilities of the parties in the delegation of certain duties and powers of the HRD, in accordance with the provisions of Chapter 31, MGL, section 5(l), to the <City/Town/Department> in order to incorporate the use of an assessment center as a weighted, graded component of the examination process for the title of <insert>, <City/Town/Department>, <Department name>.

The Department will be included to participate in the written examination for <job title> scheduled to be administered by the HRD on <date>. There will be three components of the examination process: written examination, education and experience rating, and an assessment center. The weights for the examination components are <__%> for written examination, <__%> for the education and experience rating, and <__%> for the assessment center exercises. The education and experience and the assessment center ratings will be included in the overall examination mark subject to the applicant scoring at or above the passing point on the written examination component.

If the Department desires to conduct the assessment center component before HRD determines the passing point for the written examination and which participants achieved a passing score, it is understood that all eligible applicants must be given the opportunity to participate in the assessment center exercises. It is the Department's responsibility to ensure that each applicant is advised that the results of his/her assessment center component will be cancelled if s/he does not pass the written examination.

The Department has agreed to hire a consultant to develop, construct, validate, administer and score the assessment center component and to pay all attendant costs associated with same. Upon submission of the credentials, qualifications and references of the proposed consultant to HRD and the approval of HRD regarding the selection of the consultant, HRD will work with and approve the actions of the consultant in, but not limited to, the following areas.

1. Determination of the knowledges, skills, abilities and personal characteristics (KSAP's) that are supported by job analysis data that will be evaluated during the assessment center exercises.
2. Determination of the relative weights of the three examination components as supported by job analysis data.
3. Discussions relative to the job-related content valid exercises that will be used during the assessment center component.

4. The security plan that will be utilized to ensure the integrity of the assessment center.
5. Any training materials or sessions that will be distributed to/conducted for applicants prior to the administration of the assessment center in order to familiarize them with assessment center procedures.
6. The review of any validation materials which support the assessment center exercises.
7. The composition and selection of the panelists for the assessment center exercises.
8. The training of the assessment center assessors in the use of the rating schedules.
9. The review and approval of the rating schedules to be used.
10. The Human Resources Division's and Department's representation as observers only for the assessment center exercises.
11. Reviews permitted pursuant to Section 22 of Chapter 31 shall be the responsibility of the consultant with respect to the assessment center exercises, with the approval of HRD.
12. This delegation agreement may be revoked if any delegated duty or responsibility is exercised in violation of or in a manner inconsistent with this delegation agreement.

The Human Resources Division authorizes <name>, <title>, Organizational Development Group/Civil Service (617-878-xxxx) to act as its representative in all matters relative to this delegation agreement.

FOR THE <CITY/TOWN/DEPARTMENT>:

 <Name of Appointing Authority>
 <Title>

 Date

FOR THE HUMAN RESOURCES DIVISION:

 Ruth N. Bramson
 Chief Human Resources Officer

 Date

Massachusetts Human Resources Division**POLICE CHIEF APPOINTMENTS SUBJECT TO CIVIL SERVICE
IN THE FOLLOWING CITIES AND TOWNS**

Acton	Ludlow	Salem
Acushnet	Lynn	Sandwich
Andover	Lynnfield	Saugus
Arlington	Malden	Shrewsbury
Attleboro	Manchester	South Hadley
Auburn	Mansfield	Southbridge
Barnstable	Marblehead	Swampscott
Bellingham	Marshfield	Taunton
Belmont	Medford	Tewksbury
Beverly	Medway	Uxbridge
Billerica	Methuen	Ware
Bourne	Milford	Wareham
Bridgewater	Millbury	Watertown
Burlington	Montague	Webster
Charlton	Natick	W. Bridgewater
Chicopee	Needham	W. Springfield
Clinton	New Bedford	Westfield
Danvers	Newburyport	Westford
Dartmouth	North Andover	Weymouth
Dracut	North Attleboro	Whitman
Easthampton	North Reading	Wilmington
Easton	Northbridge	Winchester
Fairhaven	Norton	Woburn
Foxborough	Orange	Worcester
Gloucester	Oxford	Wrentham
Great Barrington	Palmer	
Holbrook	Peabody	
Holden	Pembroke	
Hull	Pittsfield	
Ipswich	Plainville	
Lancaster	Plymouth	
Leicester	Quincy	
Leominster	Randolph	
Lexington	Raynham	
Lowell	Rockport	